

**Burlington Board of Health
Minutes – Regular Meeting
Tuesday, July 28, 2009**

Board Members Present: Terry McSweeney, Chair; Ed Weiner, Ph.D, Vice-Chair; Jim Dion; Cathy Read, Ph.D, RN

Staff Members Present: Sharon Walker Mastenbrook, Director of Public Health; Marlene Johnson, Health Agent; Heidi Porter, Environmental Engineer; Andria Nemoda, R.N., Supervising Nurse

The meeting was called to order at 7:00 p.m.

Mr. McSweeney expressed the Board's regret upon the recent death of former Board of Health and office staff member, Jane Richard.

APPROVAL OF MINUTES - June 23, 2009

Motion: To approve the June 23, 2009 minutes as amended: Citizens Time, third paragraph.
From: "...tree trunks are being buried under the loam
To: "...they may possibly be burying existing tree stumps under the loam." (Mr. Dion; second: Dr. Read). **Approved: 4-0-0**

CITIZENS TIME

Joe Pandolfo, contractor, was present to explain design plans for 2 Marion Road in response to a call of concern from a neighbor regarding grade alteration. Mr. Pandolfo explained that the foundation is typical and all roof drains going to dry wells and trench wells will be installed beyond typical requirements.

Motion: To approve plan for drainage permit.

Discussion: Ms. Porter informed the Board that Mr. Panfolfo is also installing a gravel trench along the property line with 4 Marion Road to promote infiltration. She also indicated that this area typically collects water and that Mr. Pandolfo's proposal includes accommodating that water.

Approved: 4-0-0

HEARING

- ▶ ***Outback Steakhouse, 34 Cambridge St. – Food Code Violations Progress Report***

Joint Venture Partners, Charles Kozmits and Erick Braunstein, were present.

Ms. Johnson reviewed the history of the restaurant commenting that the former Proprietor, Joseph Hebert, was replaced by the above partners. She stated that there had been a marked improvement with the cleanliness of the kitchen. Three additional employees have been certified as CFPM's. Their food consultant submits extensive reports and there has been

aggressive training of cooks. There has been enormous improvement with hand washing sinks. All compliance conditions of the Board of Health, she said, have been met.

The Board welcomed and thanked the new proprietors for their hard work.

Motion: To vote in favor of allowing Outback Steakhouse to continue operating a food service establishment (Dr. Weiner; second: Dr. Read) **Approved: 4-0-0**

HEARING

▶ ***Raja & Rana's Indian Grocery, 232 Cambridge St. – Food Code Violations***

Dharmesh Rana, store owner, was present because of on-going Food Code violations during routine health inspections. Ms. Johnson said that employees have not been properly trained on proper labeling and storing of food products. Other violations included no paper towels and food was being stored below the required six inches both in store and refrigerator.

Dr. Weiner read the conditions and asked that they placed into the record:

1. Use past practice – follow Code Enforcement Model;
2. Allow Raja & Rana's Indian Grocery to remain open until January 26, 2010;
3. Raja & Rana's Indian Grocery is to submit to the Board of health five (5) monthly sanitation reports (August through December) from an independent food consultant at food permit holder's expense;
4. Three additional inspections be conducted by a Board of Health inspector at food permit holder's expense, August through December (\$50.00 for each initial inspection, \$25.00 for each re-inspection);
5. Have a successful routine health inspection before December 31, 2009 with no repeat violations found;
6. Appear before the Board of Health at the regularly scheduled board meeting on January 26, 2010 for a progress report;
7. The Board of Health may vote at this meeting to revoke Raja & Rana's Indian Grocery's food permit to operate a food establishment if the above conditions are not met. If the above conditions are met, the Board may vote to allow Raja & Rana's Indian Grocery to continue to operate.

Mr. Rana was asked to explain and one of the issues he said was that they were out of labels. He said that he understand all the issues, and would work on it.

Ms. Mastenbrook stated that items marked "for institutional use" should not be in the store.

Dr. Weiner explained that it was the owner's responsibility, along with the BOH, to ensure that the laws of the Town are followed in order to protect the public.

Motion: To accept conditions as written (Dr. Weiner; Second: Mr. Dion). **Approved: 4-0-0**

DRAINAGE PERMIT

▶ ***1 James St. Permit Needed***

Property owners Brian Lacroix and Erin Sharaffa were present as well as Nancy Playle, owner of 4 Hope Street which abuts the back of 1 James St. Ms. Mastenbrook explained that the

owners had recently been before the BOH because of an abutting neighbor's concern. She added that 700 cubic yards of unspread fill has been delivered to the property causing water and sand to drain into the neighbor's property. The total area to be developed is approximately 7,500 square feet.

At this time hay bales have been installed to help block the runoff. The issues still to be addressed are the source of the material, whether or not a drainage permit is needed, and any necessary conditions that need to be set.

GTA Landscaping informed the property owner that the clean and screened fill was received from residential properties in Melrose and Everett. Ms. Mastenbrook said that she had confirmed that the addresses had been residential since the 1930's.

Ms. Sharaffa explained that the delivered soil was for back, front, and sides of the property. She also said that a retaining wall would be built between the two properties, and that the lawn would be hydro seeded.

Mr. McSweeney asked Mrs. Playle if she was satisfied with the explanation and plans. She replied that she was as long as there was a retaining wall and the exposed slope would be seeded. The drainage control work will be completed by The Lawn Guys of Burlington.

Dr. Weiner explained his concern with the timetable, and Mrs. Sharaffa said that the work was a priority and would be started as soon as possible.

Motion: To grant the issuance of a drainage permit to continue landscaping work, with the condition that the retaining wall be installed prior to the end of the summer (Dr. Weiner; second: Mr. Dion). **Approved: 4-0-0**

KENNEL LICENSE

▶ 1 James St. – New License

Property owners Brian Lacroix and Erin Sharaffa were present and said they will have five dogs on their property for personal use.

Motion: To grant a Kennel License for 1 James Street (Mr. Dion; second: Dr. Read)

Discussion: Dr. Weiner asked neighbor, Ms. Playle, if she had any objections, and she said that she did not.

Approved: 4-0-0

KEEPING OF ANIMALS (Fowl)

▶ 22 Woodhill Rd. – New Permit

Application was withdrawn by applicant.

VARIANCE

▶ **22 Woodhill Rd. – Distance from House to Pen/Coop**

Application was withdrawn by applicant.

VARIANCE

▶ **Fireside Catering, 211 Middlesex Turnpike – External Grease Trap**

The owner of this new catering business, Josh Webber, was present to request BOH approval for a variance from Burlington BOH's Regulations Concerning Grease Trap Requirements for Food Establishments. Ms. Johnson said there will be one frialator. Two 70 lb. grease traps will be installed and one internal passive grease trap will be connected to the ware wash sink.

Ms. Johnson recommended denying the variance because the establishment will be preparing foods with fats, oils and grease. If the variance is approved, a one-year temporary variance is recommended with the owner coming before the Board in one year.

Motion: To grant a one-year temporary variance to Fireside Catering with the stipulation that the proponent appear before the Board in one year for consideration of a permanent variance (Dr. Weiner; second: Mr. Dion).

Discussion: Dr. Weiner reviewed the importance of keeping appropriate logs.

Approved: 4-0-0

VARIANCE

▶ **San Soo Kap Soo (Super H-Mart), 3 Old Concord Rd. – Acidification of Rice**

Ji Hu Nan, Owner, was present to request BOH approval for a variance from the Food Code which requires food to be held either hot (140 ° or above) or cold (41 ° or below) for the purpose of using vinegar as acidification for rice. This is an approved method of food preservation that requires BOH approval.

Ms. Johnson recommended granting the variance with standard conditions.

Motion: To grant a variance to San Soo Kap San Japanese Restaurant & Takeout to preserve rice using acidification as a method of food preservation (Dr. Weiner; second: Mr. Dion).

Discussion: Dr. Weiner reminded the owner to ensure that the proper PH measurement testing be conducted and to keep appropriate logs.

Approved: 4-0-0

SITE PLAN

▶ ***223 Middlesex Turnpike***

Erich Nitzsche, Commonwealth Engineering reviewed the site plan stating that the proponent is proposing to operate a church out of the existing, one-story building. The on-site storm water control drainage control plans were reviewed for the flat-roofed building. Roof and parking lot drainage, he said, will flow away from the building and conveyed to a vegetated filter strip that will provide treatment prior to infiltration. Roof runoff will be directed to a rip rap area and conveyed to a vegetated filter strip where it will be infiltrated.

The existing parking lot will be modified with more landscaping added. The narrow strip of parking next to Vine Brook will be removed. Hay bales are proposed to be placed in front of existing wooded area. All storm water management agreements will be followed.

Dr. Weiner asked if there would be any barrier between parking lot and swale. Ms. Porter responded that curbing would be installed as a barrier.

The Planning Board, Building Department were satisfied and concerns of the Conservation Commission have been addressed.

Motion: To approve Site Plan Application for 223 Middlesex Turnpike (Mr. Dion; second: Dr. Weiner) **Approved: 4-0-0**

PLANNED DEVELOPMENT DISTRICT

▶ ***New England Executive Park***

John Conley, Equity Office Properties and Frank DiPietro, Vanasse Hangden Brustlin, were present to address the Board. Mr. Conley stated that he is entering into a PDD in order to improve the Executive Park. Three lots not owned by Equity will not be involved in PDD improvement plan.

The entire property is in the aquifer zone, and Mr. DiPietro stated that drainage improvements are planned. As this property has down-gradient-property status with the DEP due to upgradient volatile organic compound contamination to groundwater, they will continue to work with the BOH with sampling of the on-site irrigation wells.

Mr. McSweeney commented that the improvements and drainage upgrade will benefit the Town and aquifer. There are 25 conditions with the last two relating to the event that a bio-tech company moves into the Park.

Mr. DiPietro said that the PDD is being considered in order to redevelop the property for more density and they are looking to include structured parking. The roadways will also be included in the PDD. The drainage system will be updated to meet current standards, and more green space will be added.

The Conservation Commission and Planning Board are satisfied with plans thus far.

Ms. Porter said that Equity Office Properties has had consistent good records of sweeping roadways and parking areas and cleaning storm water catch basins, and their annual reporting of water sampling has remained current. The on-site extent of contamination is unknown and they will be working with the LSP on record.

Mr. Dion asked if the footprint of any buildings would change. Mr. DiPietro responded that some buildings may be higher but they expect there to be less footprint in some locations. Pavement is being cut back and more landscaping added.

Motion: To approve PDD for New England Executive Park with the 25 conditions as discussed (Mr. Dion; Second: Dr. Weiner) **Approved: 4-0-0**

HOUSING HEARING

▶ ***116 Lexington Street***

Peter Gentile, owner and landlord of 116 Lexington St. was present to update the BOH on the status of violations as discussed at the Board's June 23, 2009 meeting.

Ms. Mastenbrook explained that she visited the site today to assess progress and the following was read for the record:

Basement:

- The basement foundation is not yet complete as the owner was awaiting a building permit.
- Sheetrock and boards with mold damage has been repaired.
- The tenant's belongings previously in the basement have been removed.
- The illegal laundry sink has been removed.

- The hot water heater was not signed off on because Ms. Mastenbrook had not yet heard back from the Building Department. The old water heater was removed.
- Basement backdoor screen has been fixed.
- Insect and rodent infestation has been treated appropriately. .
- Beams with insect damage are being repaired.
- The dryer vent hose has been changed and properly installed.

First Floor

- The porch window in back has been repaired.
- The missing foyer window has been repaired.

Ms. Mastenbrook explained that Mr. Gentile was requesting an extension to Friday, July 31, 2009 for the repairs to be completed.

The BOH members agreed that the work was progressing and the items outstanding were not the fault of the homeowner.

Motion: To extend the amount of time for correction of remaining violations to Friday, July 31, 2009 (Mr. Dion; second: Dr. Weiner). **Approved: 4-0-0**

STAFF REPORTS

› Environmental Engineer's Report

The BOH members were pleased to congratulate Ms. Porter on her recent certification as a Registered Sanitarian.

Route 3 North at Route 128: Ms. Porter commented that she responded to a 40 gallon diesel fuel spill at a quarter mile area of roadway at the 128 ramp north to Route 3 north. No wetlands or catchbasins were impacted. Initial cleanup is complete and lab results will be forwarded to the BOH.

High School Field Renovation: Funds were appropriated at the most recent Town Meeting for the renovation and installation of artificial turf at the high school's football field. Ms. Porter explained that she will be involved with the plans and site preparation because of the past contamination in this area.

Hazardous Regulations: Burlington has had a Groundwater and Water Supply Protection and Hazardous Materials Regulation in place for almost thirty years. Lexington is now starting the difficult process of creating their own regulations. The Board agreed with Ms. Porter's recommendation to submit a letter of support from the Burlington BOH supporting Lexington's efforts.

Motion: To forward a letter of recommendation for a Hazardous Materials Regulation to the Health Director of the Town of Lexington (Dr. Weiner; second: Mr. Dion). **Approved: 4-0-0**

Mosquito Spraying: Spraying will take place end of this week and beginning of next. Ms. Porter has been having discussions with the contractor as they no longer will be testing mosquito pools for free. Alternative plans will be discussed further.

Motion: To accept the Environmental Engineer's report as submitted (Dr. Read; second: Mr. Dion). **Approved: 4-0-0**

› Health Agent's Report

Ms. Johnson reported that the last inspections of Recreational Camps would be taking place the following Monday. She added that swimming pools continue to be inspected once a month.

Motion: To accept the Health Agent's report as submitted. (Dr. Read; second: Mr. Dion) **Approved: 4-0-0**

› Board of Health Nursing Report

Ms. Nemoda was not present for this meeting. The BOH reviewed the submitted reports.

Motion: To accept the Nurse's report as submitted (Mr. Dion; Dr. Weiner). **Approved: 4-0-0**

► **Director of Public Health's Report**

H1N1: With school starting in the fall, the BOH Department will continue to keep the schools up to date on this virus.

MRC: Activities of the MRC can be found on the national website. They are participating in community events such as the 4th of July activities. Each volunteer will be receiving name identification badges.

EDS: Ms. Mastenbrook reviewed the first EDS Planning Meeting on June 16, 2009 and stated that the joint EDS will be held at Burlington High School on November 14, 2009.

Flu Program: Ms. Mastenbrook reviewed the flu immunization shot reimbursement data for the past four years, and because of reimbursement and grant cutbacks, the numbers are in the negative. Vaccines will only be purchased now for Town employees and seniors. Less Medicare reimbursement is also expected in the future.

Electronic Cigarettes: A warning has been issued about possible carcinogens in the water vapor of these cigarettes.

Motion: To accept the Director of Public Health's report (Dr. Weiner; second Mr. Dion)
Approved: 4-0-0

DISCUSSION

► ***Drainage Permit Standards***

The existing Drainage Permit needs to be updated, Grade definition and erosion will also be included. Other wording to be added would be regarding hearings or penalties. The BOH members agreed that the permit should be updated.

Motion: To adjourn at 8:40 p.m. **Approved: 4-0-0**

Respectfully Submitted,



Betty McDonough, Recording Secretary